

1 in this application, any reference to exactly what Translator  
2 facilities and LPTV facilities you are referring to?

3 A No, sir.

4 Q Thank you.

5 A There, there is a notation if information of such  
6 interest is requested by the Commission, it will be provided  
7 promptly or immediately.

8 Q Now do you see the reference under, under Mrs. Duff,  
9 the narrative: Mrs. Duff is also involved with, and I quote,  
10 "various foreign broadcast facilities," end quote.

11 A Yes, sir.

12 Q Does it describe what facilities those are?

13 A No, sir.

14 Q Okay. Now when you filed this application, as well  
15 as the Portland application, isn't it a fact that you knew  
16 that the Commission's television branch would be processing  
17 this application? In fact, you had spoken with Alan Glasser,  
18 who works in that, that branch, correct?

19 A Yes, sir.

20 Q Now you were shown earlier, a number of filings.  
21 You were shown, shown those filings by Mr. Topel in Exhibits  
22 -- Trinity Exhibits Number 122 and 121. And those exhibits  
23 consisted of, for example, an EEO filing.

24 A Yes, sir.

25 Q Now when you -- you have practiced before the

1 Commission since 1980, is that correct?

2 A Yes, sir.

3 Q And at the time that you filed the Odessa  
4 application and the Portland applications, you had been  
5 practicing before the Commission for at least six years?

6 A Yes, sir.

7 Q When you submitted the EEO filings to the  
8 Commission, wasn't it your understanding that the EEO branch  
9 would be processing that form?

10 A Yes, sir.

11 Q And among the, the filings that Mr. Topel showed  
12 you, showed you earlier were LPTV applications.

13 A Yes.

14 Q Is that correct?

15 A Yes, sir.

16 Q And it was your understanding that when an LPTV  
17 application is filed with the Commission, the low-power branch  
18 processes that application, isn't that correct?

19 A Yes, sir. I'm not sure how long there has been a  
20 low-power branch, how far back it goes. There was a point  
21 about this time when essentially the television branch  
22 included to, and may still do that, you may just have a  
23 separate division within it.

24 Q And you were also shown by Mr. Topel various  
25 ownership reports this morning. Correct?

1           A     Yes, sir.

2           Q     And it's your understanding from your practice  
3 before the Commission that when ownership reports are filed  
4 with the Commission, that they Commission's ownership section  
5 processes and files those forms as well, correct?

6           A     Yes, sir.

7           Q     Now when you filed the Odessa and the Portland  
8 applications -- strike that. When you submitted the various  
9 EEO, low-power, and ownership filings that Mr. Topel showed  
10 you earlier -- strike that.

11                   (Asides.)

12          Q     When you filed the various low-power, EEO, and  
13 ownership filings that Mr. Topel showed you earlier, was it  
14 your understanding that the information contained in those  
15 filings would be presented to the TV branch in order to cure  
16 any deficiencies that might exist in the Odessa and Portland  
17 applications?

18          A     They're, they're public documents. They're here at  
19 the agency. Frankly, in terms of how they're circulated, I  
20 really don't know. I didn't, I mean it wasn't my conscious  
21 thinking that somehow now these are going to be incorporated  
22 in any particular application. It was material in file as  
23 part of the public record at the FCC.

24          Q     Mr. May, isn't it a fact that the Odessa and the  
25 Portland applications were never amended to incorporate by

1 reference any of the information contained in the EEO,  
2 low-power, or ownership filings that Mr. Topel referred you to  
3 earlier?

4 A I think that's, yes. I think that's correct, yes,  
5 sir.

6 Q And it's also a fact, is it not, that you did not  
7 specifically intend that the information that was included in  
8 the low-power, EEO, and ownership filings be considered by the  
9 TV branch in reviewing the Odessa and the Portland applica-  
10 tions.

11 A I don't -- I didn't have any intent at all, except  
12 this is material had to be filed with the Commission. It's  
13 public information. It's there. So I mean certainly there's  
14 no intent to withhold or not to disclose the information.

15 Q But you had no specific intent that the information  
16 that you filed in the low-power, EEO, and ownership applica-  
17 tions relate, in any way, to the then pending Odessa and  
18 Portland applications. Isn't that correct?

19 A That's true. But the ownership reports, for  
20 example, did have listings and giving the ownership of  
21 Television Translator. This is material that was in the  
22 public files.

23 Q Mr. May, is there any way that someone looking at  
24 the Odessa or the Portland applications would know that the  
25 P. Jane Duff who was referred to in the Portland and Odessa

1 applications, is the same Jane Duff who is referred to in any  
2 of the ownership, EEO, or low-power filings?

3 A I had specific conversations with the processing  
4 staff about, among other things, Mrs. Jane Duff, P. Jane Duff,  
5 Jane Duff, Jane P. Duff, she's gone by a number of different  
6 names.

7 Q Is there anything in the filings? I didn't ask you  
8 whether you had conversations. I'm talking about the official  
9 filings, the public documents. There isn't, is there?

10 A There is a -- I'm sorry, ask the question again,  
11 please.

12 Q Is there any way that someone looking at the Odessa  
13 or the Portland applications would know that the P. Jane Duff  
14 who is referenced in those applications is the same Jane Duff  
15 who is referenced in the low-power, EEO, or ownership filings?

16 A Even in the owner -- even in the Odessa application,  
17 she's noted as being Jane Duff in Exhibit 1, although in the  
18 table on the, in the form itself it says P. Jane Duff.

19 Q Well, does it say there that Jane Duff is assistant  
20 to the president of TBN?

21 A No, sir, it does not.

22 Q Does it say that she's a salaried employee of TBN?

23 A No, sir, it does not.

24 Q Did any of the filings, that is the EEO, low-power,  
25 or ownership filings that Mr. Topel referred you to earlier,

1 make any reference that NMTV had applications pending for  
2 Odessa or Portland?

3 A I'm sorry, I mean maybe I didn't hear the question?

4 Q All right. I'll repeat it. Did any of the filings  
5 that Mr. Topel referred you to earlier, that's the low-power,  
6 the EEO, or the ownership filings, did any of those filings  
7 indicate that NMTV had applications pending for Odessa or  
8 Portland?

9 (Asides.)

10 A I'm sorry, I knew you were talking to your  
11 colleague.

12 Q I'm, I'm waiting for your, your response.

13 A The ownership material filed did show National  
14 Minority. At the time, National Minority had material that  
15 was pending with the Commission, which was the Odessa files  
16 and the like. There is nothing in there, however, that  
17 specifically says, oh, and make sure you reference this with  
18 regard to BAPCT number such and so forth, or any specific  
19 application at the Commission.

20 Q Thank you. Can you turn to Bureau Exhibit Number  
21 59, which is in Volume One.

22 A Yes, sir.

23 Q As of May 23, 1983, did you already have a telephone  
24 installed and operating at your offices' new addresses, at  
25 1156 15th Street, Northwest, in Washington?

1 A No, sir.

2 Q Where did that number come from?

3 A We had been in communication with the telephone  
4 company that we were going to be at this location and they  
5 gave us a telephone number, but the phone number wasn't  
6 actually connected and operational, frankly, for the, for some  
7 time. I don't recall that we got it until sometime during  
8 that first week, latter part of the first week of June.

9 Q Now I'd like to refer you to the license  
10 applications for Odessa and Portland, Bureau Exhibit  
11 Number 224.

12 (Asides.)

13 A I have the one for Odessa.

14 Q And the one for Portland is Trinity Exhibit 101, Tab  
15 V, as in Victor, page 61.

16 A Yes, sir, I have them.

17 Q You'll have to wait for me, because I don't.

18 (Asides.)

19 MR. TOPEL: Do you want to see it.

20 MR. SCHONMAN: Is that page 61?

21 MR. TOPEL: That's it, yes.

22 MR. SCHONMAN: Mr. May has it.

23 Q Now there was discussion earlier with Mr. Cohen  
24 about Ben Miller's role with respect to these two  
25 applications, and my question for you, looking over these

1 applications, isn't it a fact that neither application makes  
2 any reference to the fact that Ben Miller was a salaried  
3 employee of TBN?

4 A Yes, sir. That's true.

5 Q It does not make that reference?

6 A No, sir, it does not make that reference.

7 Q That's it, Your Honor. I have no further questions.

8 JUDGE CHACHKIN: Do you have anything, Mr. Topel?

9 MR. TOPEL: I appreciate the opportunity, Your  
10 Honor. I'd just like to wish Your Honor and everybody all a  
11 happy New Year. See you in 1994.

12 JUDGE CHACHKIN: Right. You're excused. Thank you,  
13 Mr. May.

14 MR. COHEN: I'll stipulate to that, Your Honor.

15 JUDGE CHACHKIN: All right. All right, we'll be in  
16 recess until January 10th, 1994, at 9:30 a.m. All right.

17 (Whereupon, the hearing was recessed at 1:15 p.m. on  
18 December 23, 1993 to reconvene at 9:30 a.m. on January 10,  
19 1994.)  
20  
21  
22  
23  
24  
25



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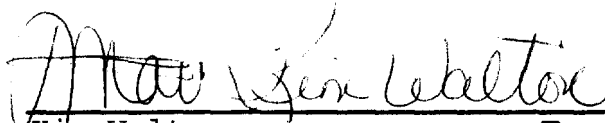
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**Docket No.**

WASHINGTON, D.C.  
**Place**

DECEMBER 23, 1993  
**Date**

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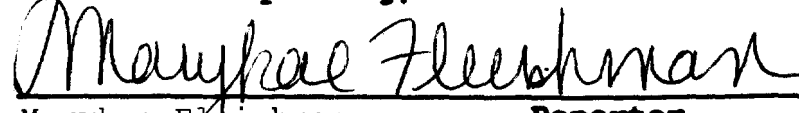
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